

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RAYMOND GERARD FRANK	:	CIVIL ACTION
	:	
v.	:	
	:	
MONTGOMERY COUNTY d/b/a	:	
MONTGOMERY COUNTY	:	
CORRECTIONAL FACILITY, ET AL.	:	NO. 21-827

ORDER

AND NOW, this 20th day of, March, 2023, upon consideration of Defendant City of Philadelphia’s second Motion to Dismiss for Failure to State a Claim (the “City’s Motion”) (Docket No. 8), the Motion of Defendants Montgomery County Correctional Facility and Warden Sean McGee to Dismiss Plaintiff’s Amended Complaint (“Montgomery County’s Motion”) (Docket No. 9), and Plaintiff’s Omnibus Response to both Motions, and for the reasons stated in the accompanying Memorandum, **IT IS HEREBY ORDERED** that the Motions are **DISMISSED AS MOOT** in part and **GRANTED IN PART** and as follows:

1. Because Plaintiff has **WITHDRAWN** his claims against Warden Sean McGee, his negligence claim against Montgomery County, and his claim for punitive damages against Montgomery County, Montgomery County’s Motion is **DISMISSED AS MOOT** insofar as it seeks dismissal of those withdrawn claims.
2. Montgomery County’s Motion is **GRANTED** insofar as it seeks dismissal of Plaintiff’s Monell claim, and Plaintiff’s Monell claims against Montgomery County in Count II, IV and V in the First Amended Complaint are therefore **DISMISSED**.
3. The City’s Motion is **GRANTED**, and Plaintiff’s Monell claims against the City in Count II, IV and V of the First Amended Complaint are **DISMISSED**.

4. The City, Montgomery County, and Sean McGee are **DISMISSED** as Defendants to this action.¹

BY THE COURT:

/s/ John R. Padova, J.

John R. Padova, J.

¹ The only remaining Defendant that Plaintiff has served in this case is PrimeCare Medical, Inc., and the only remaining claim against PrimeCare Medical, Inc. is a constitutional claim pursuant to 42 U.S.C. § 1983 in Count III of the Amended Complaint that it was deliberately indifferent to Plaintiff's serious medical needs.